

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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U.S. DISTRICT COURT E.D.N.Y.
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GARY LA BARBERA and FRANK FINKEL,
Trustees of Local 282 International
Brotherhood of Teamsters Welfare, Pension,
Annuity, Job Training and Vacation Sick Leave
Trust Funds,

BROOKLYN OFFICE

MEMORANDUM AND ORDER
Case No. 08-CV-3648 (FB) (CLP)

Plaintiffs,

-against-

CAB II Enterprises, Inc.,

Defendant.
-----x

Appearances:

For the Plaintiff:

AVRAM H. SCHREIBER, ESQ.
40 Exchange Place, Suite 1300
New York, New York 10005

BLOCK, Senior District Judge:

On July 16, 2009, Magistrate Judge Cheryl L. Pollak issued a Report and Recommendation ("R&R") recommending that plaintiffs be awarded damages in the amount of \$17,159.71, representing \$7,452.48 in principal contributions; \$1,153.68 in interest; \$4,111.49 in liquidated damages; and \$4,442.06 in attorneys' fees and costs. *See* R&R at 20. The R&R also stated that failure to object within ten days would preclude appellate review. *See id.* According to the docket, the Clerk's office mailed a copy of the R&R to defendant on July 17, 2009; no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice

of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, *see Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

SO ORDERED.

s/FB

FREDERIC BLOCK/
Senior United States District Judge

Brooklyn, New York
August 5, 2009